

**UNITED STATES BANKRUPTCY COURT
FOR THE ILLINOIS NORTHERN DISTRICT
EASTERN DIVISION**

In re:

Case #:

Berludis Rodriguez
Debtor

14-42192

Judge: Hon. Jack B. Schmetterer

Berludis Rodriguez, Plaintiff
v.
Nationstar Mortgage, LLC, Defendant

Adversary #: 15-00307

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to a default order and because the allegations of the complaint have been taken as confessed against Nationstar Mortgage, LLC ("Defendant"), the following findings of fact and conclusions of law are made and will be entered:

1. Jurisdiction lies before this court through 28 U.S.C §1334(b).
2. This is a core proceeding through 28 U.S.C §157(b)(2)(k).
3. Venue is properly placed in this district through 28 U.S.C §1409.
4. Plaintiff's primary residence is commonly known as 489 McHenry Rd, 1A, Wheeling IL 60090, parcel identification number 03-03-400-056-1007 ("subject property").
5. On November 21, 2014, Plaintiff filed a petition for Chapter 13 relief.
6. On May 8, 2015, Plaintiff filed an adversary proceeding against Defendant pursuant to 11U.S.C. §506(a) and Bankruptcy Rule 3012 to determine the validity of Defendant's lien on the subject property.
7. On May 14, 2015, service of the summons and complaint was made on Defendant by regular, first class United States mail, postage fully pre-paid, and addressed in accordance with Bankruptcy Rule 7004.

8. Ocwen Loan Servicing, LLC holds a primary mortgage balance of \$48,628.00 against the subject property.
9. Defendant holds a junior mortgage balance of \$26,320.17 against the subject property.
10. On May 30, 2014, Plaintiff obtained an appraisal of the subject property indicating a value of \$45,000.00.
11. Ocwen Loan Servicing, LLC has not filed a proof of claim in the underlying bankruptcy matter.
12. Defendant has not filed a proof of claim in the underlying bankruptcy matter.
13. Plaintiff's credit report was relied upon in scheduling Ocwen Loan Servicing LLC's primary mortgage balance on Plaintiff's bankruptcy schedules.
14. Plaintiff's credit report was relied upon in scheduling Defendant's junior mortgage balance on Plaintiff's bankruptcy schedules.
15. Section 1322(b)(2) of the Bankruptcy Code permits modification of rights of secured claims holders, other than a claim secured only by a security interest in real property that is the debtor's principal residence. *See In re Plourde*, 402 B.R. 488 (Bankr.N.H. 2009); *In re Kheng*, 202 B.R. 538 (Bankr.D.R.I.1996); *In re Murphy*, 175 B.R. 134, 137 (Bankr.D.Mass 1994); *In re McGregoe*, 172 B.R. 718 (Bankr.D.Mass 1994); and, *In re Legowski*, 167 B.R. 711 (Bankr.D.Mass 1994).
16. Defendant has not filed an appearance or responsive pleading in the instant matter.

WHEREFORE, for the foregoing reasons, a judgment of default shall be entered in favor of the Plaintiffs and against Defendant valuing the subject property at \$45,000.00.


Judge Jack B. Schmetterer

Dated: 7/27/15

JUL 27 2015